

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS WORKERS COMPENSATION**

**RITA FIFE**

Claimant

VS.

**THE BOEING COMPANY - WICHITA**

Respondent

AND

**AETNA CASUALTY & SURETY COMPANY**

Insurance Carrier

**KANSAS WORKERS COMPENSATION FUND**

Docket No. 162,556

**ORDER**

Claimant requests review of the preliminary hearing Order entered in this proceeding by Administrative Law Judge John D. Clark on November 1, 1995.

**ISSUES**

An Award was entered in this proceeding on August 25, 1995. Thereafter, claimant filed a Form E-3, Application for Preliminary Hearing, to request additional medical treatment and attorney fees. The Administrative Law Judge denied claimant's request for additional medical treatment, but his order was silent as to attorney fees. Claimant requests the Appeals Board review the denial of claimant's requests for treatment and attorney fees. Those are the issues now before the Appeals Board.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Based upon the evidence presented and for purposes of preliminary hearing, the Appeals Board finds as follows:

The Director's office, parties and Administrative Law Judge all treated this proceeding as a preliminary hearing within the context of a post-award request for additional medical treatment. As such, the jurisdiction of the Appeals Board to review the preliminary hearing findings by the Administrative Law Judge is as statutorily provided by K.S.A. 1995 Supp. 44-551(b)(2)(A) and K.S.A. 44-534a(a)(2).

The Appeals Board has jurisdiction only to review preliminary orders where it is alleged that the Administrative Law Judge has exceeded his or her jurisdiction, or where one of the specific jurisdictional issues listed in K.S.A. 44-534a is in controversy. Claimant's allegations that the Administrative Law Judge erred in not granting claimant's request for psychiatric or psychological treatment and for attorney fees do not give rise to one of the issues in K.S.A. 44-534a and do not otherwise amount to an allegation that the Administrative Law Judge has exceeded his jurisdiction. It should be noted that at the hearing before the Administrative Law Judge, claimant failed to introduce any evidence of a current need for such treatment nor of any change in claimant's condition or

circumstances since the date of the award. The only evidence offered in support of claimant's request for medical treatment was the prior testimony of claimant and the deposition of Dr. Robert Rawcliffe taken as part of the regular hearing. This is the same evidence which was before the Special Administrative Law Judge when he entered his award on August 25, 1995. Based upon that same record, the Special Administrative Law Judge declined to order this treatment. Claimant had been receiving this type of treatment, but it had been terminated prior to the award.

The Appeals Board does not have jurisdiction to review the Administrative Law Judge's preliminary decision concerning medical treatment and attorney fees. Therefore, the claimant's Application for Review should be dismissed.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that this review should be, and hereby is, dismissed and that the preliminary hearing Order of Administrative Law Judge John D. Clark dated November 1, 1995 remains in full force and effect.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of January 1996.

BOARD MEMBER \_\_\_\_\_

BOARD MEMBER \_\_\_\_\_

BOARD MEMBER \_\_\_\_\_

c: Robert R. Lee, Wichita, KS  
Frederick L. Haag, Wichita, KS  
Vincent L. Bogart, Wichita, KS  
John D. Clark, Administrative Law Judge  
Philip S. Harness, Director